

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Crl.Rev.Pet.No. 2514 of 2007()

**CRA.193/2004 of SESSIONS COURT, KOZHIKOE
CC.176/2003 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY**
.....

REVN. PETITIONER: PETITIONER - APPELLANT - ACCUSED

**BASHEER, S/O.ALIKUTTY, PULLANHIMEDU,
RAROTH, KOZHIKODE.**

**BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR**

RESPONDENTS: RESPONDENT - COMPLAINANT

**STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

V. RAMKUMAR, J.

.....
Cri. R.P. No. 2514 OF 2007
.....

Dated this the 5th day of July, 2007

O R D E R

The revision petitioner, who was the accused in C.C.No.176/2003 on the file of the JFCM-I, Thamarassery for an offence punishable under section 379 IPC, challenges the conviction entered and the sentence passed against him concurrently by the courts below.

2. The subject matter of the theft is a motor cycle belonging to PW2. It was allegedly stolen from his house around midnight on 2.4.2003. On the next day, he lodged a complaint before the police. The vehicle was recovered from the possession of the accused on 4.4.2003. He had absolutely no explanation for his possession of the vehicle. The trial Magistrate, who had the unique advantage of seeing the witnesses and assessing their credibility, was inclined to accept the prosecution evidence notwithstanding the minor contradictions and inconsistencies. On an appeal preferred by the revision petitioner, the lower appellate court had also confirmed the conviction entered and has reduced the sentence of imprisonment from two years to one year.

3. This court cannot, sitting in the revisional jurisdiction, re-appreciate the evidence and come to a different conclusion especially when this court does not find any infirmity in the appreciation of

evidence by the courts below. The conviction was, therefore, rightly entered against the revision petitioner.

4. What survives for consideration is the legality and extent of the sentence imposed on the revision petitioner. Having regard to the fact that the revision petitioner was aged only 30 years at the time of occurrence and is a first offender, I am of the view that imprisonment for a period of six months will meet the ends of justice particularly when the motor cycle in question was recovered and ordered to be released to PW2. Accordingly, for his conviction under section 379 IPC the revision petitioner is sentenced to simple imprisonment for six months. The sentence imposed on the revision petitioner is modified accordingly.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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